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NEVADA BOARD OF PAROLE COMMISSIONERS

To: Board of Parole Commissioners

From: David M. Smith, Hearings Examiner II *DMS*

RE: Agenda Item VI Consideration of the Revision of the General Parole Conditions
January 9, 2019 meeting of the Board

Attached is a copy of a list of the current general parole conditions applied to each offender’s case when parole is granted with proposed changes in italics. This agenda item proposes modifying the general conditions of parole to include two new conditions.

Warrants

Several years ago, the Board issued a “blanket” Order permitting the Division of Parole and probation (“P&P”) to assign the condition *“You shall satisfy any outstanding warrants within 90 days of your release from custody.”*

The “blanket” order solution was effectuated in an effort to eliminate delays in releases from prison that were occurring because of the time it took to amend the parole orders. Instead of continuing with the “blanket” order, it is recommended that the warrants condition be stated within the general conditions of parole.

Marsy’s Law

Also attached is a copy of the constitutional changes made pertaining to Marsy’s law which was approved by the Voters and became effective November 27, 2018.

Paragraph #7 of the attached (Marsy’s Law) defines a victim as:

As used in this section, "victim" means any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf, except that the court shall not appoint the defendant as such a person.

It has been the Board's practice to apply the *no contact with victim* condition when granting parole when there is a known victim only in the instant offense.

Marsy's law expands the definition of "victim" and does not limit the applicability of the constitutional provisions to only an instant offense. The Board does not maintain a database of victim information on cases occurring outside of any offenses a prisoner is currently serving.

To ensure compliance with the expanded definition of "victim" in the constitution, the addition of the following general condition is recommended.

You may not contact or communicate with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State, or solicit another person to contact or communicate on your behalf with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State unless approved in writing by the Division of Parole and Probation.

General Parole Conditions (Paroles to Community)

NOTIS CODE: STANDRD_2014

Directives: You shall follow the directives of the Division of Parole and Probation to include the following:

- A. You shall not change your place of residence without first obtaining permission from the Division of Parole and Probation.
- B. You shall report in person to the Division of Parole and Probation as instructed by the Division or its agent. You shall submit a written report each month on forms supplied by the Division. This report shall be true and correct in all respects.
- C. You shall seek and maintain legal employment, or maintain a program approved by the Division of Parole and Probation and not change such employment or program without first obtaining permission. All terminations of employment or program shall be immediately reported to the Division.
- D. You shall pay any court ordered restitution by making payments until the balance is paid in full. The minimum monthly payment shall be established by dividing the balance owed at the time of release on parole by the number of projected months to be served on parole. If, after dividing the total restitution owed by the number of projected months to be served on parole the monthly payment is equal to an amount less than \$50, the monthly payment shall be \$50 until the balance is paid in full.
- E. Pay all applicable fines and fees on a schedule determined by the Division of Parole and Probation.
- F. You shall not leave the state without first obtaining written permission from the Division of Parole and Probation.
- G. You shall not associate with convicted felons, persons who are engaged in criminal activity, or other persons with whom your supervising officer instructs you not to associate.
- H. You shall follow all the directives of your assigned Parole Officer.
- I. You shall satisfy any outstanding warrants within 90 days of your release from custody.*
- J. You may not contact or communicate with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State, or solicit another person to contact or communicate on your behalf with the victim or any person directly and proximately harmed by the commission of a criminal offense under any law of this State unless approved in writing by the Division of Parole and Probation.*

Controlled substances: You shall not use, purchase or possess any illegal drugs, or any prescription drugs, unless first prescribed by a licensed medical professional. You shall immediately notify the Division of Parole and Probation of any prescription received. You shall refrain from the use and possession of any synthetic/designer drug or any mind and/or body altering substance. You shall submit to drug testing as required by the Division or its agent.

Recreational Marijuana: You shall not purchase, consume or have under your control marijuana in any form, except when such use is prescribed for use as a medicine in accordance with the provisions of chapter 453A of NRS.

Intoxicants: You shall not purchase, consume or have under your control any alcohol beverage, unless specifically permitted by special condition of the Board. Upon the direction of the Division of Parole and Probation, you shall submit to a medically recognized test for blood/breath content.

Weapons: You shall not possess, have access to, or have under your control, any type of weapon unless the item is used in conjunction with the duties of legitimate employment and has been approved in writing by the Division of Parole and Probation or its agent.

Laws: You shall comply with all institutional rules, municipal, county, state, and federal laws and ordinances.

Conduct: You shall comply with all the provisions stated on the parole agreement and your conduct shall justify the opportunity granted to you by this community supervision.

Rights of a Victim of Crime According to Article I of the Constitution of the State of Nevada Effective November 27, 2018

Sec. 8A. Rights of victim of crime. [Effective November 27, 2018]

1. Each person who is the victim of a crime is entitled to the following rights:
 - (a) To be treated with fairness and respect for his or her privacy and dignity, and to be free from intimidation, harassment and abuse, throughout the criminal or juvenile justice process.
 - (b) To be reasonably protected from the defendant and persons acting on behalf of the defendant.
 - (c) To have the safety of the victim and the victim's family considered as a factor in fixing the amount of bail and release conditions for the defendant.
 - (d) To prevent the disclosure of confidential information or records to the defendant which could be used to locate or harass the victim or the victim's family.
 - (e) To refuse an interview or deposition request, unless under court order, and to set reasonable conditions on the conduct of any such interview to which the victim consents.
 - (f) To reasonably confer with the prosecuting agency, upon request, regarding the case.
 - (g) To reasonable notice of all public proceedings, including delinquency proceedings, upon request, at which the defendant and the prosecutor are entitled to be present and of all parole or other postconviction release proceedings, and to be present at all such proceedings.
 - (h) To be reasonably heard, upon request, at any public proceeding, including any delinquency proceeding, in any court involving release or sentencing, and at any parole proceeding.
 - (i) To the timely disposition of the case following the arrest of the defendant.
 - (j) To provide information to any public officer or employee conducting a presentence investigation concerning the impact of the offense on the victim and the victim's family and any sentencing recommendations before the sentencing of the defendant.
 - (k) To be informed, upon request, of the conviction, sentence, place and time of incarceration, or other disposition of the defendant, the scheduled release date of the defendant and the release of or the escape by the defendant from custody.
 - (l) To full and timely restitution.
 - (m) To the prompt return of legal property when no longer needed as evidence.
 - (n) To be informed of all postconviction proceedings, to participate and provide information to the parole authority to be considered before the parole of the offender and to be notified, upon request, of the parole or other release of the offender.
 - (o) To have the safety of the victim, the victim's family and the general public considered before any parole or other postjudgment release decision is made.
 - (p) To have all monetary payments, money and property collected from any person who has been ordered to make restitution be first applied to pay the amounts ordered as restitution to the victim.
 - (q) To be specifically informed of the rights enumerated in this section, and to have information concerning those rights be made available to the general public.
2. A victim has standing to assert the rights enumerated in this section in any court with jurisdiction over the case. The court shall promptly rule on a victim's request. A defendant does not have standing to assert the rights of his or her victim. This section does not alter the powers, duties or responsibilities of a prosecuting attorney. A victim does not have the status of a party in a criminal proceeding.
3. Except as otherwise provided in subsection 4, no person may maintain an action against this State or any public officer or employee for damages or injunctive, declaratory or other legal or equitable relief on behalf of a victim of a crime as a result of a violation of this section or any statute enacted by the Legislature pursuant thereto. No such violation authorizes setting aside a conviction.
4. A person may maintain an action to compel a public officer or employee to carry out any duty required by this section or any statute enacted by the Legislature pursuant thereto.
5. The granting of these rights to victims must not be construed to deny or disparage other rights possessed by victims. A parole authority shall extend the right to be heard at a parole hearing to any person harmed by the offender.
6. The Legislature shall by law provide any other measure necessary or useful to secure to victims of crime the benefit of the rights set forth in this section.
7. As used in this section, "victim" means any person directly and proximately harmed by the commission of a criminal offense under any law of this State. If the victim is less than 18 years of age, incompetent, incapacitated or deceased, the term includes the legal guardian of the victim or a representative of the victim's estate, member of the victim's family or any other person who is appointed by the court to act on the victim's behalf, except that the court shall not appoint the defendant as such a person.